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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,657	04/22/2004	Dino Chirumbolo	713-1126	6837

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LOWE HAUPTMAN GILMAN AND BERNER, LLP  
1700 DIAGONAL ROAD  
SUITE 300 /310  
ALEXANDRIA, VA 22314

EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/829,657

Applicant(s)

CHIRUMBOLO, DINO

Examiner

Michael J. Kyle

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04/22/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/7/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the limitation “said air tight chamber” in line 24. This limitation lacks antecedent basis. As best understood, this limitation refers to the “closed chamber” recited in line 21 of the claim. Additionally, it does not appear that any chamber is airtight. The chamber 40, which examiner believes to be both the “closed chamber” and “air tight chamber”, has a calibrated restriction 42, which appears to be a hole, that connects the chamber with the external environment. Because the chamber appears to be a hole that is connected with the outside environment, it cannot be said that this chamber is airtight.
2. Claim 4 is objected to because it is unclear of the “helical spring” of this claim is the same as the “elastic means” of claim 1. As best understood, they are the same.
3. Claim 6 is objected to because of the limitation “such as a screw”. It is unclear what other connection means are incorporated by the term “such as”.
4. Claim 8 is objected to because of the limitation “sleeve-like”. It is unclear if the term “like” includes elements not actually recited in the claim.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

Art Unit: 3677

regards as the invention. Both of these claims recite the limitation "said rod". This term has not previously provided for in these claims or in the claims from which these claims depend. It is unclear what the relationship between the rod and the other claimed elements is.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19951422 A1 ("DE '422"). DE '422 discloses a retractable control knob comprising a hub (3, 4) connected in a seat (9) on a rotatable control pin (received by 8). DE '422 further disclose a grip (2) that can slide on the hub (3) and includes interposed elastic means (5), and means for selective axial connection (see interlocking portion on left side 2). The grip projects in cantilever fashion from the first end of the hub and set partially outside the seat (figure 1) at a first axial position, and is fitted on the hub and is retracted within the seat in a second axial position. The grip (2) and hub (3, 4) define a chamber (32) between them having a volume that is a function of the axial position of the grip on the hub. DE '422 further shows sliding seal means (30) sealing the chamber (32) and a calibrated restriction for permanently connecting the inside of the chamber to the external environment. Examiner notes that the calibrated restriction is inherent in DE '422 because there must be an element that allows air flow in and out of chamber 32, otherwise linear movement of portion 31 would not be accommodated.

Art Unit: 3677

9. With respect to claim 2, DE '422 discloses the grip (2) to be cup shaped and having a concavity facing the hub. The first end of the hub includes a blind hole (in 40) that is engaged by rod (31) that is fixed to the grip (2). The rod carries a fluid tight gasket (30).

10. With respect to claim 3, DE '422 discloses an end wall (25) of the blind hole is formed by separating a diaphragm with a fitting seat designed to receive the control pin and including a calibrated through hole (inherent). Examiner notes the limitation "is formed by separating" appears to me a method limitation in an article claim, and amounts to a product by process limitation. Patentability is based on the product itself (MPEP 2113). In this case, wall 25 is separate from the fitting seat 8 and thus meets the claimed limitation.

11. With respect to claim 4, DE '422 discloses the grip (2) to include a sleeve (7) slidably fitted on the hub. A helical spring (5) is housed inside the sleeve and is fitted between a shoulder of the hub and an end wall of the cup-shaped grip.

12. With respect to claims 5 and 6, DE '422 discloses the gasket (30) to be a bell shaped lip gasket with its concavity facing the grip. The gasket is at an end of a rod (31) and fastened via connection means.

13. With respect to claim 7, the lipped gasket (30) of DE '422 appears to be fitted by snap-action into a rod (31).

14. With respect to claim 8, DE '422 discloses the rod (31) and sleeve (7) are made of a single piece by means of a connecting portion (6, 22) to form a single element. Examiner notes that all elements together form a single control knob. Examiner notes the limitation "being fixedly mounted by snap-action" appears to me a method limitation in an article claim, and amounts to a product by process limitation. Patentability is based on the product itself (MPEP

Art Unit: 3677

2113). In this case, because the connection element is fixedly mounted, it meets the claim limitation.

*Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show that state of the art with respect to control knobs: Conkling, Baret, Gorsek, Webb, Zeringue, Minutillo, Campbell, Tauati, JP '289, and DE '967.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk

  
ROBERT J. SANDY  
PRIMARY EXAMINER